

## **REMARKS**

Claims 1-50 are pending in this application. Of these pending claims, Claims 1-15, 26-46, 49, and 50 stand rejected; and Claims 16-25, 47, and 48 stand withdrawn. By way of this paper, Claims 1 and 11 have been amended.

The foregoing amendments and following remarks are believed to be fully responsive to the outstanding office action, and are believed to place the application in condition for allowance.

### **Claim Rejections – 35 U.S.C. § 103**

Claims 1-4, 6, 10-12, 26-36, 39-40, and 44-46 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the Sievers et al. ('441) reference in view of the Coulter ('949) reference. Claims 5, 37, and 38 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the Sievers et al. ('441) reference, in view of the Coulter ('949) reference, as applied to claims 1-4, 6, 12-10-12, 26-36, 39-40, and 44-46, and further in view of the Matsumoto et al. ('456) reference. Claims 7, 8, 41, and 42 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the Sievers et al. ('441) reference in view of the Coulter ('949) reference, as applied to claims 1-4, 6, 10-12, 26-36, 39-40, and 44-46, and further in view of the Shrivastava et al. ('401) reference. Claims 9 and 43 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the Sievers et al. ('441) reference in view of the Coulter ('949) reference, as applied to claims 1-4, 6, 10-12, 26-36, 39-40, and 44-46, and further in view of Ishikawa et al. ('347) reference. Claims 13-15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the above cited references, in view of the Coulter ('949) reference, as applied to claims 1-4, 6, 12-12, 26-36, 39-40, and 44-46, and further in view of the Wang ('980) reference.

Independent Claims 1 and 11 have been amended to more clearly point out that the pressurized source of the thermodynamically metastable mixture of the fluid and the solvent free marking material is a single pressurized source. Support for this amendment can be found on at least page 11, line 30, through page 12, line 22 of Applicants' specification. Mixing of the fluid (for example, a compressed liquid, supercritical fluid, etc.) and the marking material occurs in the single pressurized source (page 11, lines 30-34, of the specification). When suitably mixed, the mixture or formulation of the fluid and the marking material is

released from the pressurized source through the discharge device by actuating the actuating mechanism (page 12, lines 19-22, of the specification). In this sense, Applicants' invention is operable to form fine particles in one step using a single source. Applicants respectfully submit that the prior art cited above does not disclose this feature.

In this regard, Applicants submit that the Sievers et al. ('441) reference discloses an apparatus having at least two sources necessary to form fine particles, the first being an aqueous solution reservoir 14 containing a dissolved or suspended substance (col. 11, lines 53 and 54), and the second being a carbon dioxide reservoir 10 containing liquid carbon dioxide (col. 11, lines 46 and 47). Mixing of the aqueous solution and the liquid carbon dioxide provided by the sources occurs in mixing tee 20 (col. 11, lines 46-57). After mixing, the mixture is released through restrictor capillary 22 (col. 12, lines 1-6).

However, the substance must first be dissolved or suspended in an aqueous solution before it can be mixed with the liquid carbon dioxide. This occurs either in reservoir 14 or prior to the aqueous solution being placed in reservoir 14 (Abstract; col. 4, lines 17-34; col. 4, line 61 through col. 5, line 7). As such, the Sievers et al. ('441) reference discloses an apparatus operable to form fine particles in two steps using at least two sources. Accordingly, reconsideration and withdrawal of the 35 U.S.C. §103 rejection of Claims 1 and 11 is respectfully requested.

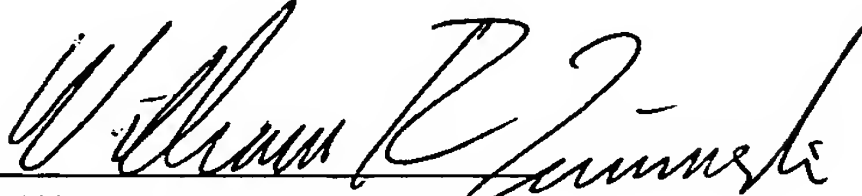
The remainder of the claims being dependent from one of Claims 1 and 11 are considered patentable for at least the same reasons as set forth above which state a basis for the allowance of Claims 1 and 11.

### **CONCLUSION**

It is respectfully submitted that, in view of the above amendments and remarks, this application is now in condition for allowance, prompt notice of which is earnestly solicited.

The Examiner is invited to call the undersigned in the event that a phone interview will expedite prosecution of this application towards allowance.

Respectfully submitted,

  
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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.